



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2019-0294; FRL-10007-17-Region 4]

#### Air Plan Approval; Tennessee: Chattanooga NSR Reform

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing approval of revisions to the Tennessee State Implementation Plan (SIP) submitted through two letters dated June 25, 2008, and September 12, 2018. The SIP revisions were submitted by the Tennessee Department of Environment and Conservation (TDEC) on behalf of the Chattanooga/Hamilton County Air Pollution Control Bureau and modify the Prevention of Significant Deterioration (PSD) regulations in the Chattanooga portion of the Tennessee SIP to address changes to the federal new source review (NSR) regulations in recent years for the implementation of the national ambient air quality standards (NAAQS). Additionally, the SIP revisions include updates to Chattanooga's regulations of nitrogen oxides (NO<sub>x</sub>) and other miscellaneous typographical and administrative updates. This action is being taken pursuant to the Clean Air Act (CAA or Act).

**DATES:** This rule is effective [Insert 30 days after date of publication in the Federal Register].

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2019-0294. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute.

Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Andres Febres, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-8966. Mr. Febres can also be reached via electronic mail at [febres-martinez.andres@epa.gov](mailto:febres-martinez.andres@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. This Action**

EPA is taking final action to approve changes to the Chattanooga-Hamilton County portion of the Tennessee SIP regarding PSD permitting, as well as updates to the regulations of NO<sub>x</sub> and other miscellaneous typographical and administrative updates, submitted by TDEC on behalf of the Chattanooga/Hamilton County Air Pollution Control Bureau (Bureau) through two letters dated June 25, 2008, and September 12, 2018.<sup>1, 2, 3</sup> EPA is finalizing approval of portions

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<sup>1</sup> EPA received the SIP revisions on July 8, 2008, and September 18, 2018, respectively.

<sup>2</sup> The Bureau is comprised of Hamilton County and the municipalities of Chattanooga, Collegedale, East Ridge, Lakesite, Lookout Mountain, Red Bank, Ridgeside, Signal Mountain, Soddy Daisy, and Walden. The Bureau

of these SIP revisions that make changes to the Chattanooga City Code, Part II, Chapter 4, Article II, Section 4-41. Specifically, EPA is approving changes in Section 4-41, which include updates to Rule 2 – *Regulation of Nitrogen Oxides*; Rule 9 – *Regulation of Visible Emissions from Internal Combustion Engines*, and Rule 18 – *Prevention of Significant Deterioration of Air Quality*.<sup>4, 5, 6, 7</sup>

Aside from making typographical and administrative corrections to some of the rules, these SIP revisions are meant to address changes to the federal NSR regulations, as promulgated by EPA in various rules and as described in EPA’s February 11, 2020, notice of proposed rulemaking (NPRM). *See* 85 FR 7986. In the February 11, 2020, NPRM, EPA proposed to approve the aforementioned changes to Section 4-41, Rule 2 – *Regulation of Nitrogen Oxides*, Rule 9 – *Regulation of Visible Emissions from Internal Combustion Engines*, and Rule 18 – *Prevention of Significant Deterioration of Air Quality* in the Chattanooga–Hamilton County

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recommends regulatory revisions, which are subsequently adopted by the eleven jurisdictions. The Bureau then implements and enforces the regulations, as necessary, in each jurisdiction.

<sup>3</sup> On January 16, 2020, TDEC submitted, on behalf of the Bureau, a letter dated January 15, 2020, providing supplemental information for the September 12, 2018, submittal. This letter is discussed in the proposed action (85 FR 7986) and is available in the Docket.

<sup>4</sup> The list of SIP-approved rules for Chattanooga/Hamilton County, found at Table 4 of 40 CFR 52.2220(c), currently shows the title of Section 4-41, Rule 18 as “Prevention of Significant Air Quality Deterioration.” In this final rule, EPA is approving a change to this title to instead show “Prevention of Significant Deterioration of Air Quality.”

<sup>5</sup> In this final action, EPA is also approving substantively identical changes from Chattanooga’s Section 4-41, Rule 18, in the following sections of the Air Pollution Control Regulations/Ordinances for the remaining jurisdictions within the Bureau, which were locally effective as of the relevant dates below: Hamilton County – Section 41, Rule 18 (9/6/17); City of Collegedale – Section 14-341, Rule 18 (10/16/17); City of East Ridge – Section 8-41, Rule 18 (10/12/17); City of Lakesite – Section 14-41, Rule 18 (11/2/17); City of Red Bank – Section 20-41, Rule 18 (11/21/17); City of Soddy-Daisy – Section 8-41, Rule 18 (10/5/17); City of Lookout Mountain – Section 41, Rule 18 (11/14/17); City of Ridgeside Section 41, Rule 18 (1/16/18); City of Signal Mountain Section 41, Rule 18 (10/20/17); and Town of Walden Section 41, Rule 18 (10/16/17). However, changes to Chattanooga’s Section 4-41, Rule 2 and Rule 9, only apply to the City of Chattanooga (12/12/07); Hamilton County – Section 8-541, Rules 2 and 9 (11/7/07); and City of Collegedale – Section 8-541, Rules 2 and 9 (1/22/08); therefore, EPA is not approving any corresponding Regulations/Ordinances for the remaining municipalities.

<sup>6</sup> In the February 11, 2020, NPRM (85 FR 7686), EPA inadvertently misidentified the section numbers for: (1) Hamilton County’s Rules 2 and 9, as Section 41; and (2) the City of Collegedale’s Rules 2 and 9, as Section 14-341. The correct section number for both municipalities is Section 8-541.

<sup>7</sup> Because the air pollution control regulations/ordinances adopted by the jurisdictions within the Bureau are substantively identical, EPA refers solely to Chattanooga and the Chattanooga rules throughout the notice as representative of the other jurisdictions for brevity and simplicity.

portion of the Tennessee SIP. The February 11, 2020, NPRM provides additional details regarding EPA's action. Comments on the February 11, 2020, NPRM were due on or before March 12, 2020. EPA received no adverse comments on the proposed action.

## **II. Incorporation by Reference**

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Chattanooga City Code, Part II, Chapter 4, Section 4-41, Rule 2 – *Regulation of Nitrogen Oxides*; and Rule 9 – *Regulation of Visible Emissions from Internal Combustion Engines*, both locally effective December 12, 2007; as well as Rule 18 – *Prevention of Significant Deterioration of Air Quality*, locally effective October 3, 2017.<sup>8,9</sup> The revisions are designed to address changes to the Federal NSR regulations in recent years for the implementation of the NAAQS and updates to Chattanooga's regulations of NOx and other miscellaneous typographical and administrative updates. EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated

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<sup>8</sup> EPA's approval also includes regulations/ordinances submitted for the other ten jurisdictions within the Bureau. See *supra* notes 2 and 5.

<sup>9</sup> In the February 11, 2020, NPRM (85 FR 7986), EPA inadvertently misidentified the locally effective dates for: (1) Chattanooga's Section 4-41, Rule 18, as January 23, 2017; and (2) the City of Lakesite's Section 14-41, Rule 18, as October 17, 2017. The correct dates are October 3, 2017, and November 2, 2017, respectively.

by reference in the next update to the SIP compilation.<sup>10</sup>

### **III. Final Action**

EPA is taking final action to approve changes to Chattanooga's June 25, 2008, and September 12, 2018, SIP submittals, meant to address changes to the federal NSR regulations, as well as making typographical and administrative updates. Specifically, EPA is finalizing approval of changes to Chattanooga City Code, Part II, Chapter 4, Section 4-41, which include updates to Rule 2 – *Regulation of Nitrogen Oxides*; Rule 9 – *Regulation of Visible Emissions from Internal Combustion Engines*, and Rule 18 – *Prevention of Significant Deterioration of Air Quality*. EPA is approving changes into the Chattanooga portion of the Tennessee SIP because the changes are consistent with section 110 of the CAA.

### **IV. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. These actions merely approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, these actions:

- Are not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Are not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;

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<sup>10</sup> *See* 62 FR 27968 (May 22, 1997).

- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175

(65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. These actions are not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days from date of publication of this document in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. These actions may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 17, 2020.

Mary S. Walker,  
Regional Administrator,  
Region 4.

## PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

### Subpart RR–Tennessee

2. In § 52.2220, paragraph (c), amend table 4 by revising the entries for “Section 4-41, Rule 2,” “Section 4-41, Rule 9,” and “Section 4-41, Rule 18,” under the heading “Article II. Section 4-41 Rules, Regulations, Criteria, Standards” to read as follows:

#### § 52.2220 Identification of plan.

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(c) \* \* \*

## TABLE 4 – EPA APPROVED CHATTANOOGA REGULATIONS



<b>State section</b>	<b>Title/subject</b>	<b>Adoption date</b>	<b>EPA approval date</b>	<b>Explanation</b>
**	**	*	*	*
<b>Article II. Section 4-41 Rules, Regulations, Criteria, Standards</b>				
**	**	*	*	*
Section 4-41 Rule 2	Regulation of Nitrogen Oxides	12/12/07	[Insert date of publication in <u>Federal Register</u> ], [Insert citation of publication]	EPA's approval includes the corresponding sections of the Air Pollution Control Regulations/Ordinances for the following jurisdictions within the Chattanooga-Hamilton County Air Pollution Control Bureau, which were locally effective as of the relevant dates below: Hamilton County – Section 8-541, Rule 2 (11/7/07); and City of Collegedale – Section 8-541, Rule 2 (1/22/08).
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Section 4-41 Rule 9	Regulation of Visible Emissions from Internal Combustion Engines	12/12/07	[Insert date of publication in <u>Federal Register</u> ], [Insert citation of publication]	EPA's approval includes the corresponding sections of the Air Pollution Control Regulations/Ordinances for the following jurisdictions within the Chattanooga-Hamilton County Air Pollution Control Bureau, which were locally effective as of the relevant dates below: Hamilton County – Section 8-541, Rule 9 (11/7/07); and City of Collegedale – Section 8-541, Rule 9 (1/22/08).
**	**	*	*	*

Section 4-41 Rule 18	Prevention of Significant Deterioration of Air Quality	10/3/17	[Insert date of publication in <u>Federal Register</u> ], [Insert citation of publication]	EPA's approval includes the corresponding sections of the Air Pollution Control Regulations/Ordinances for the remaining jurisdictions within the Chattanooga-Hamilton County Air Pollution Control Bureau, which were locally effective as of the relevant dates below: Hamilton County – Section 41, Rule 18 (9/6/17); City of Collegedale – Section 14-341, Rule 18 (10/16/17); City of East Ridge – Section 8-41, Rule 18 (10/12/17); City of Lakesite – Section 14-41, Rule 18 (11/2/17); City of Red Bank – Section 20-41, Rule 18 (11/21/17); City of Soddy-Daisy – Section 8-41, Rule 18 (10/5/17); City of Lookout Mountain – Section 41, Rule 18 (11/14/17); City of Ridgeside Section 41, Rule 18 (1/16/18); City of Signal Mountain Section 41, Rule 18 (10/20/17); and Town of Walden Section 41, Rule 18 (10/16/17).
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[FR Doc. 2020-06583 Filed: 3/31/2020 8:45 am; Publication Date: 4/1/2020]